

No. 13-1264 PO

1. House was licensed as a peace officer by the Director at all relevant times.
2. On February 28, 2012, House attempted to cause physical injury to S.H. by punching S.H. in the head.

Conclusions of Law

We have jurisdiction to hear this case. § 590.080.2.¹ The Director has the burden of proof to show by a preponderance of the evidence that there is cause to discipline House's peace officer license. *See Kerwin v. Mo. Dental Bd.*, 375 S.W.3d 219, 229-230 (Mo. App. W.D. 2012). A preponderance of the evidence is evidence showing, as a whole, that "the fact to be proved [is] more probable than not." *Id.* at 230 (*quoting State Bd. of Nursing v. Berry*, 32 S.W.3d 638, 642 (Mo. App. W.D. 2000)).

The Director alleges that there is cause for discipline under § 590.080.1:

1. The director shall have cause to discipline any peace officer licensee who:

* * *

(2) Has committed any criminal offense, whether or not a criminal charge has been filed.

The Director alleges that House committed the crime of third-degree assault.

"A person commits the crime of assault in the third degree if ... [t]he person attempts to cause ... physical injury to another person." § 565.070.1(1), RSMo 2000. The stipulated facts in this case show that House attempted to cause physical injury to S.H. by punching S.H. in the head. We find that House committed the crime of third-degree assault. There is cause to discipline his license under § 590.080.1(2).

Summary

House is subject to discipline under § 590.080.1(2). We cancel the hearing.

SO ORDERED on October 18, 2013.

\s\ Karen A. Winn

KAREN A. WINN
Commissioner

¹ Statutory references are to the 2012 Cumulative Supplement to the Missouri Revised Statutes unless otherwise noted.